

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:) Chapter 11
)
EASTERN LIVESTOCK CO., LLC, et al.,) Case No. 10-93904-BHL-11
)
Debtors.)

**MOTION TO APPROVE COMPROMISE AND SETTLEMENT
WITH TRUSTEE MICHAEL J. WALRO**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee (the "Trustee") for Eastern Livestock Co., LLC ("Debtor"), by counsel, hereby files this motion (the "Settlement Motion") requesting the Court's approval of a compromise and settlement of claims between the Trustee and Michael J. Walro in his capacity as trustee ("East-West Trustee") for the bankruptcy estate of East-West Trucking Co., LLC ("East-West"). In support of this Settlement Motion, the Trustee states as follows:

Introduction and Background

1. East-West is a debtor in a chapter 7 bankruptcy case pending in this Court and captioned as *In re East-West Trucking Co., LLC*, Case No. 10-93999-BHL-7.
2. The East-West Trustee filed a proof of claim in this case on March 30, 2011 (the "East-West Claim"), asserting that Debtor owes East-West \$192,359.24 on account of services performed by East-West at Debtor's request prior to the filing of this chapter 11 case.
3. The Trustee filed a proof of claim in East-West's case (the "ELC Claim") and together with the East West Claim, the "Claims") on April 12, 2011 asserting a general unsecured claim against East-West in an amount not less than \$1,396,507.78. The ELC Claim is made up of three components: 1) an account or note receivable claim in the amount of \$480,489.24 on account of advances made by Debtor to or for East-West's benefit (the

"Receivable Claim"); 2) preference and fraudulent transfer claims pursuant to 11 U.S.C. §§ 547, 548 and 550 and the Indiana Uniform Fraudulent Transfer Act on account of payments made within one year of December 6, 2010 by Debtor to or for the benefit of East-West on account of antecedent debt owed from Debtor to East-West and/or without adequate consideration (the "Chapter 5 Claims"); and 3) claims related to the delivery of cattle to Cattlemen's Feedlot, Ltd. (the "Cattlemen's Claim"). Subsequent to the filing of the ELC Claim, the Trustee determined that Debtor paid \$4,556,996.93 to East-West in the year prior to the filing of this chapter 11 case.

4. The Trustee released the Cattlemen's Claim as part of a settlement approved in this chapter 11 case on December 19, 2011 [Docket No. 919].

5. The Trustee and the East-West Trustee, after reviewing the parties' respective rights and obligations and desiring to avoid the significant cost and expense of litigating the Claims, entered into settlement negotiations and have agreed to settle the Claims as follows:

- a. The East-West Trustee shall withdraw the East-West Claim; and
- b. The Trustee shall be allowed a general unsecured claim in the East-West bankruptcy case in the amount of \$971,679.53.

Basis for Relief

6. Pursuant to Federal Rule of Bankruptcy Procedure 9019, this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

7. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M.

Holloway Found, 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

8. The Trustee believes that the compromise and settlement reflected in this Settlement Motion is in the best interests of the Debtor's estate. The settlement is the result of arms-length negotiations and accurately accounts for both parties' claims and defenses. The settlement provides full credit for the Trustee's Receivable Claim (after setting off the East-West Claim). Further, the settlement takes into account 1) the recovery available for general unsecured creditors of the East-West bankruptcy estate, 2) the costs of litigating the Chapter 5 Claims and 3) the East-West Trustee's potential defenses to the Chapter 5 Claims.

9. The alternative to the settlement is continued litigation of the Claims and the possibility of an outcome that would result in a smaller recovery for the estate.

10. The Trustee therefore believes that the proposed settlement is fair and equitable and in the sound exercise of his business judgment.

11. If no objections to this Settlement Motion are filed, the Trustee requests that the Court enter an order approving the settlement described in this Settlement Motion and authorizing the Trustee to take all actions necessary to finalize and effectuate the settlement. If any objections to this Settlement Motion are filed, the Trustee requests that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

Respectfully submitted,

FAEGRE BAKER DANIELS, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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